

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

<b>JOHN G. WESTINE,</b>	)	
	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	<b>Civil Action</b>
	)	<b>No. 05-3234-CV-S-RED-H</b>
<b>JOSEPH E. GUNJA,<sup>1</sup> Warden,</b>	)	
<b>United States Medical Center for</b>	)	
<b>Federal Prisoners,</b>	)	
	)	
<b>Respondent.</b>	)	

**ORDER AND JUDGMENT**

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for a writ of habeas corpus was referred to the United States Magistrate for preliminary review under the provisions of 28 U.S.C. § 636(b).

The United States Magistrate Judge has completed his preliminary review of the petition herein for a writ of habeas corpus and has submitted to the undersigned a report and recommendation that the petition for a writ of habeas corpus be dismissed without prejudice.

Petitioner has filed exceptions to the report and recommendation of the Magistrate in which he continues to assert the allegations of his original petition that his rights are being violated, and that forced participation in the Inmate Financial Responsibility Program is contrary to law.

Having fully reviewed the record de novo, the Court agrees with the Magistrate that the petition should be dismissed. Petitioner has failed to exhaust his administrative remedies regarding

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<sup>1</sup>The name of Joseph E. Gunja, the current warden at the Medical Center, has been substituted for that of Robert McFadden, the former warden at that institution.

his complaint that he is being forced to pay his fine as a prerequisite to participate in the 500-hour residential drug abuse treatment program. Regardless of petitioner's complaint, exhaustion of administrative remedies is required under the law. 42 U.S.C. § 1997e(a). Accordingly, the Magistrate properly held that petitioner's case must be dismissed for failure to exhaust administrative remedies.

Based on the file and records in this case, it is concluded that the findings of fact, conclusions of law, and proposed actions of the Magistrate are correct and should be approved. It is therefore

ORDERED that petitioner's exceptions filed herein be, and they are hereby, CONSIDERED and OVERRULED. It is further

ORDERED that petitioner be, and he is hereby, denied leave to proceed in forma pauperis. It is further

ADJUDGED that the petition herein for a writ of habeas corpus be, and it is hereby, dismissed without prejudice.

/s/ Richard E. Dorr  
RICHARD E. DORR  
United States District Judge

Date: August 18, 2006